

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 10/31/2017

DETENTION WATCH NETWORK and
CENTER FOR CONSTITUTIONAL RIGHTS,

Plaintiffs,

v.

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT and UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY,

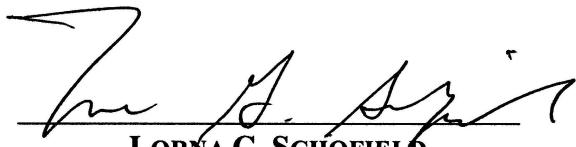
Defendants.

No. 14 Civ. 583 (LGS)

The Clerk of Court is directed to close this case.

Dated: October 31, 2017

New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

**STIPULATION AND ORDER REGARDING
FURTHER DOCUMENT PRODUCTION**

WHEREAS, on November 25, 2013, Plaintiffs Detention Watch Network and the Center for Constitutional Rights (collectively, "Plaintiffs") made requests (the "Requests") pursuant to the Freedom of Information Act ("FOIA") to U.S. Immigration and Customs Enforcement ("ICE") and the U.S. Department of Homeland Security ("DHS," and together with ICE, the "Agencies") seeking documents relating to immigration detention, and in particular relating to agreements between ICE and DHS and other public and private entities operating detention facilities at which immigration detainees are held;

WHEREAS, on January 30, 2014, Plaintiffs filed a complaint in the instant action against the Agencies, seeking judicial assistance in securing the responses to their Requests, ECF No.

1-1;

WHEREAS, on March 25, 2014, Plaintiffs wrote a letter to counsel for the Government clarifying the scope of the Requests;

WHEREAS, on May 16, 2014, the Court ordered that the Agencies each make monthly productions of responsive documents to Plaintiffs, ECF No. 40;

WHEREAS, ICE's productions included agreements it had entered into with non-federal operators of detention facilities at which immigration detainees are held (the "Detention Agreements"), on which ICE applied redactions pursuant to FOIA Exemptions 4 and 7(e), 5 U.S.C. § 552(b)(4), (b)(7)(E), with respect to certain pricing and staffing information;

WHEREAS, Plaintiffs sought partial summary judgment, arguing that ICE's redactions pursuant to FOIA Exemptions 4 and 7(e) were improper, though they subsequently limited their Exemption 7(e) challenge to only those staff members providing health and medical care or social services, ECF No. 75, 108;

WHEREAS, on April 27, 2016, while the partial summary judgment order was pending, this Court ordered Plaintiffs to redact a spreadsheet they had filed on the docket, which ICE had produced in response to a FOIA request by the Transactional Records Action Clearinghouse of Syracuse University (the "TRAC Spreadsheet"), which contained certain pricing data relating to the Detention Agreements, ECF No. 118;

WHEREAS, on July 14, 2016, this Court granted Plaintiffs' partial summary judgment motion, and ordered the Agencies to un-redact the challenged information, ECF No. 123 (the "Partial Summary Judgment Order");

WHEREAS, on September 1, 2016, this Court permitted the GEO Group, Inc. ("GEO") and CoreCivic (at that time known as Corrections Corporation of America) (together, the "Intervenors"), two of the private operators of detention facilities at which immigration detainees are held, to intervene in this case, ECF No. 141;

WHEREAS, on September 9, 2016, the Intervenors, but not the Agencies, appealed the Partial Summary Judgment Order to the United States Court of Appeals for the Second Circuit (the “Second Circuit”), ECF No. 142;

WHEREAS, on November 30, 2016, this Court stayed in part its direction in the Partial Summary Judgment Order that ICE un-redact the challenged information, pending the conclusion of Intervenors’ appeal, ECF No. 164;

WHEREAS, on February 8, 2017, the Second Circuit dismissed the Intervenors’ appeal for lack of standing, on April 11, 2017, denied their motions for rehearing and rehearing en banc, and on October 13, 2017, following the United States Supreme Court’s denial of GEO’s petition for certiorari, issued its mandate to this Court, ECF No. 186;

WHEREAS, ICE has completed its productions in response to the Requests in this case, except as required to comply with the Partial Summary Judgment Order;

WHEREAS, DHS has continued making monthly productions to Plaintiffs and, as of October 16, 2017, estimates it has 81,414 pages of documents remaining to be processed for release, ECF No. 87-1;

WHEREAS, Plaintiffs have expressed their desire that ICE produce more recent Detention Agreements than those that had been collected and processed before the Partial Summary Judgment Order;

AND, WHEREAS, Plaintiffs and the Agencies wish to resolve all outstanding issues in this litigation.

NOW, THEREFORE, it is hereby STIPULATED and AGREED between the Parties as follows:

1. ICE will produce the following documents to Plaintiffs, with redactions that are consistent with the Partial Summary Judgment Order:

- a. An updated version of the TRAC Spreadsheet, dated as of July 10, 2017.
- b. Any new Detention Agreements that ICE entered into from July 20, 2016, through July 5, 2017, which are for the following facilities:
 - i. Houston Contract Detention Facility
 - ii. Cibola County Correctional Center
 - iii. Folkston ICE Processing Center (D. Ray James)
 - iv. Northeast Ohio Correctional Center (Youngstown CDF)
- c. All modifications dated between July 20, 2016, and July 5, 2017, for the Detention Agreements for the following facilities:
 - i. Euless City Jail
 - ii. Imperial Regional Detention Facility
 - iii. Jena/LaSalle Detention Facility
 - iv. Northern Oregon Correctional Facility
 - v. Pine Prairie Correctional Facility
 - vi. Prairieland Detention Facility
 - vii. Taylor County Adult Detention Facility
 - viii. Theo Lacy Facility
 - ix. Bedford Municipal Detention Center
 - x. Lonoke Police Department
 - xi. Dearborn Police Department
 - xii. Glades County Detention Center
 - xiii. Adelanto ICE Processing Center
 - xiv. Saint Clair County Jail
 - xv. South Texas Detention Complex

- xvi. Stewart Detention Center
 - xvii. Eloy Detention Center
 - xviii. Joe Corley Detention Facility
 - xix. Essex County Correctional Facility
 - xx. York County Detention Center
- d. All ICE riders issued against detention facility contracts entered into by the U.S. Marshals Service (“USMS Riders”) and third parties, dated between July 20, 2016, and July 5, 2017.
 - e. The initial Detention Agreement (including any staffing plan contained therein) for the Glades County Detention Center.
2. ICE’s production pursuant to Paragraph 1 will be made in monthly installments of at least 750 pages per month, to begin no later than 75 days after the date this Order is entered by the Court, *provided that* ICE’s production of the USMS Riders may take longer given the need for ICE to consult with USMS regarding these documents.
3. ICE’s productions pursuant to Paragraph 1 will be deemed to satisfy all of its obligations under the Partial Summary Judgment Order.
4. DHS will make no further productions in response to the Requests.
5. As of the entry of this order by the Court, all proceedings in this case are concluded, except that Plaintiffs may make a request to the Agencies for attorneys’ fees pursuant to 5 U.S.C. § 552(a)(4)(E), attaching detailed hourly billing records, no later than 30 days from the date of this Order, *provided that* Plaintiffs may not seek attorneys’ fees for any work related to the negotiation of the agreement reflected in this Stipulation and Order. The parties shall notify the Court by letter no later than 90 days after the date of this Order if they are not able to agree on the amount of attorneys’ fees, and if so, will propose a briefing schedule.

6. This Order shall be effective only upon entry by the Court, and shall have no effect otherwise.

Dated: New York, New York
October 25, 2017



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Dated: New York, New York
October 25, 2017

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SO ORDERED:

The Honorable Lorna G. Schofield
United States District Judge

Date